

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
YOU YOU XIA, PETER CLASEN and
CHULEEPORN PHUTRAKUL, individually
and on behalf of all others similarly situated,

08-cv-4415 (JGK)

Plaintiffs,

-against-

BYO CO. (USA), LTD. d/b/a EN
and REIKA YO,

**NOTICE OF MOTION
TO CERTIFY THIS
CASE AS AN FLSA
COLLECTIVE
ACTION AND AS
A RULE 23
CLASS ACTION**

Defendants.

-----X

PLEASE TAKE NOTICE, that pursuant to the attached Declarations
of Scott A. Lucas, You You Xia, Chuleeporn Phutrakul and Peter Clasen,
and the Exhibits annexed thereto, and the accompanying Memorandum of
Law, Plaintiffs will and hereby do move the above-captioned Court,
returnable at Daniel Patrick Moynihan United States Courthouse, 500 Pearl
Street, New York, New York 10007, on a date and time to be set by the
Court if oral argument is desired, for an order: **(A)** approving their proposed
collective action notice under section 216(b) of the FLSA and compelling
Defendants to immediately disclose the names and last known addresses and
telephone numbers of each former and current server, bartender, busser and
runner who worked at EN from September 1, 2004 to the present; **(B)**
certifying this case as a class action under Rule 23(b)(3) of the Federal Rules

of Civil Procedure, for a class consisting of all persons who have worked at EN as servers, bartenders, runners or bussers from September 1, 2004 to the date of final judgment in this matter; and (C) such other and further relief as may be just.

Dated: New York, New York
 August 28, 2008

LAW OFFICES OF SCOTT A. LUCAS

By _____ /s/
Scott A. Lucas (SL-6316)
Steven M. Sack (SS-4479)
The Lincoln Building – Suite 1001
60 East 42nd Street
New York, NY 10165
(212) 573-6906
Attorneys for Plaintiffs

To: Carolyn D. Richmond, Esq.
 Fox Rothschild, LLP
 100 Park Avenue
 New York, New York 10017
 (212) 878-7983
Attorneys for Defendants